

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEBRASKA**

# **Consumer Pro-Se Debtor Guide**

Revised February 17, 2006

**THE CLERK'S OFFICE IS PROHIBITED BY 28 U.S.C. SECTION 955 FROM GIVING LEGAL  
ADVICE OR ASSISTING WITH THE PREPARATION OF FORMS.**

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**CONSUMER PRO-SE DEBTOR GUIDE**

This guide has been put together to answer some of the most often asked questions of the clerk's office staff by debtors filing bankruptcy pro-se (without legal representation). This guide is in no way intended to advise you of your legal rights or responsibilities under bankruptcy or to inform you on which chapter to file. The bankruptcy law is complicated and not easily described, and you should, if possible, seek the advice of an attorney.

The excerpts from the Bankruptcy Court's Local Rules are provided to make you, as a pro-se debtor, aware of rules you should closely follow. A copy of the Bankruptcy Court's Local Rules can be obtained at either of the Bankruptcy Court locations or through our internet address. We have also included information provided by the Office of the U.S. Trustee regarding the possible consequences of filing a bankruptcy petition under Chapter 7.

If you do decide to file bankruptcy without the benefit of counsel or use of a document preparation service, be aware that a "bankruptcy petition preparer," as defined in 11 U.S.C. section 110, is subject to strict regulations which include requirements that the preparer sign any papers prepared on behalf of the debtor, include identification of the individuals who prepared the papers and furnish the debtor with a copy of the documents prepared.

The clerk's office is prohibited by 28 U.S.C. Section 955 from giving legal advice or assisting with the preparation of forms.

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**UNITED STATES BANKRUPTCY COURT ADDRESSES & PHONE NUMBERS**

**OMAHA**

U. S. Bankruptcy Court  
District of Nebraska  
Diane L. Zech, Clerk  
Eva B. Roeber, Chief Deputy  
Roman L. Hruska Courthouse  
111 S. 18<sup>th</sup> Plaza, Ste. 1125  
Omaha, NE 68102

(402) 661-7444

Hours: 8:00 AM to 4:30 PM

**LINCOLN**

U. S. Bankruptcy Court  
District of Nebraska  
Cheryl A. Oliver, Deputy-In-Charge  
100 Centennial Mall North  
460 Federal Building  
Lincoln, NE 68508

(402) 437-5100

Hours: 8:00 AM to 4:30 PM

**INTERNET ADDRESSES**

[www.neb.uscourts.gov](http://www.neb.uscourts.gov)

-website for the U.S. Bankruptcy Court, District of Nebraska

[www.uscourts.gov/bankform](http://www.uscourts.gov/bankform)

-contains the necessary forms for filing bankruptcy

[www.uscourts.gov/publications.html](http://www.uscourts.gov/publications.html)

-contains information on the various chapters of bankruptcy

[www.13law.com](http://www.13law.com)

-contains information specific to chapter 13 bankruptcies

[www.usdoj.gov/ust/](http://www.usdoj.gov/ust/)

-contains an updated list of Credit Counseling & Education Agencies

-contains a list of approved Child Support agencies

[www.nebls.com](http://www.nebls.com)

-web site for low-income legal service programs

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We may not refer you to any individual attorney and are not permitted to give you legal advice of any nature. We suggest you call any one of the following to inquire about legal assistance.

**NEBRASKA LEGAL SERVICES**

The service provided by Nebraska Legal Services is **free** upon qualification by calling the access line: (877) 250-2016 English, (877) 669-8898 Espanol. Locations and alternate phone numbers are listed below. Web site: [www.nebls.com](http://www.nebls.com). The debtor is responsible for the cost of the filing fee.

New Toll-Free Statewide Access, Referral and Intake Line

In Omaha, call: (402) 348-1060

**Toll-free: 877-250-2016**

**Local Offices:**

(Please note: All referrals should be made using the above access line.)

**Bancroft**

(402) 648-3457, Fax: (402) 648-3461

Toll-free: 800-729-9908 (Native American)

Toll-free: 800-464-0258 (Farm)

**Grand Island**

(308) 381-0517, Fax: (308) 381-0521

Toll-free: 877-250-2018

**Lincoln**

(402) 435-2161, Fax: (402) 435-2171

Toll-free: 800-250-2016

**Norfolk**

(402) 644-4761, Fax: (402) 644-4764

Toll-free: 800-672-8319

**North Platte**

(308) 532-5793, Fax: (308) 532-5932

Toll-free: 877-669-9080

**Omaha**

(402) 348-1069, Fax: (402) 348-1068

**Scottsbluff**

(308) 632-4734, Fax: (308) 632-3844

Toll-free: 877-669-8898

**UNIV. OF NEBRASKA LAW COLLEGE**

103 Law

PO Box 830902

Lincoln, NE 68583-0902

(402) 472-3271

A \$15.00 administrative fee is charged.

Debtor is responsible for cost of filing fee.

**NEBRASKA STATE BAR ASSOC.**

*Lawyer Referral Service*

635 S. 14th St.

PO Box 81809

Lincoln, NE 68501-1809

(402) 475-7091

(800) 927-0117

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**PRIVACY ACT INFORMATION**

**PRIVACY RULES**

1. Redacted Documents. To comply with the policy of the Judicial Conference of the United States and the E-Government Act of 2002, effective December 1, 2003, filing parties shall omit or, where inclusion is necessary, partially redact the following personal data identifiers from all pleadings, documents, and exhibits, whether filed electronically or in paper, unless otherwise ordered by the Court or required statute, the Federal Rules of Bankruptcy Procedure or the Official Bankruptcy Forms.
  - a. Minors' names. If the involvement of a minor child must be mentioned, only the minor's initials should be used.
  - b. Financial account numbers. If the financial account numbers are relevant, only the last four numbers of the account number should be used.
  - c. Social Security numbers. If an individual's Social Security Number is relevant in a pleading, only the last four digits of that number should be used. Official Form B21, Statement of Social Security Number, should contain the full Social Security Number and should be processed as prescribed by the Court. This statement is not part of the public record and will not be available to the public.
  - d. Dates of birth. If an individual's date of birth must be included in a pleading, only the year should be used.
  - e. Other data as permitted by order of the Court.
2. The responsibility for redacting personal data identifiers rests solely with counsel and the parties. The Clerk's Office will not review documents for compliance with this rule or redact documents, whether filed electronically or on paper. In addition, the Court will not go back and redact documents filed before December 1, 2003.

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**DUTIES OF DEBTOR (RULE 4002)**

A. In General.

1. Attend and submit to an examination at the times ordered by the Court.
2. Attend the hearing on a complaint objecting to discharge and testify; if called as a witness.
3. Inform the trustee immediately in writing as to the location of real property in which the debtor has an interest and the name and address of every person holding money or property subject to the debtor's withdrawal or order if a schedule of property has not yet been filed pursuant to Rule 1007.
4. Cooperate with the trustee in the preparation of an inventory, the examination of proofs of claim, and the administration of the estate.
5. File a statement of any change of the debtor's address.

B. Individual debtor's duty to provide documentation.

1. Personal Identification. Every individual debtor shall bring to the meeting of creditors under § 341:
  - a. A picture identification issued by a governmental unit, or other personal identifying information that establishes the debtor's identity.
  - b. Evidence of social security number(s), or a written statement that such documentation does not exist.
2. Financial Information. Every individual debtor shall bring to the meeting of creditors under § 341 and make available to the trustee the following documents or copies of them, or provide a written statement that the documentation does not exist or is not in the debtor's possession:
  - a. Evidence of current income such as the most recent pay stub.
  - b. Unless the trustee or the United States trustee instructs otherwise, statements for each of the debtor's depository and investment accounts, including checking, savings, and money market accounts, mutual funds and brokerage accounts for the time period that includes the date of the filing of the petition.
  - c. Documentation of monthly expenses claimed by the debtor when required by § 707(b)(2)(A) or (B).
3. Tax Return. At least 7 days before the first date set for the meeting of creditors under § 341, the debtor shall provide to the trustee a copy of the debtor's Federal Income Tax Return for the most recent tax year ending immediately before the commencement of the case and for which a return was filed, including any attachments, or a transcript of the tax return, or provide a written statement that the documentation does not exist.



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4. Tax Returns Provided to Creditors. If a creditor, at least 15 days before the first date set for the meeting of creditors under § 341, requests a copy of the debtor's tax return that is to be provided to the trustee under subdivision (b)(3), the debtor shall provide to the requesting creditor a copy of the return, including any attachment, or a transcript of the tax return, or provide a written statement that the documentation does not exist at least 7 days before the first date set for the meeting of creditors under § 341.
5. The debtor's obligation to provide tax returns under Rule 4002(b)(3) and (b)(4) is subject to procedures for safeguarding the confidentiality of tax information established by the Director of Administrative Office of the United States Courts.

**FILING OF TAX RETURNS AS REQUIRED BY 11 U.S.C. § 521**

- A. The debtor must file with the trustee a copy of debtor's most recently filed tax return for the year immediately prior to the filing of the bankruptcy petition. The tax return must be filed with the Trustee at least seven (7) days before the time of the meeting of creditors conducted pursuant to 11 U.S.C. § 341.
- B. Upon request of the court, U.S. Trustee, or any party in interest, the debtor must file with the court copies of any tax returns filed during the pendency of the bankruptcy case.

**DO NOT FILE ANY TAX RETURNS WITH THE COURT UNLESS  
ORDERED TO DO SO**

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**FILING REQUIREMENTS**

**A. BANKRUPTCY FILING CHECKLIST**

1. The forms and documents required to file bankruptcy are as follows:

**NOTE: The following documents and forms are to be filed with the Court.**

- Form B1, Voluntary Petition with filing fee  
If you are not paying the filing fee at the time of filing, you will also need to submit 1 of the following:
  - Form B3A, Application to Pay Filing Fee in Installments or
  - Form B3B, Application for Waiver of Chapter 7 Filing Fee
- Matrix, list of creditor names and addresses (instructions are in this guide)
- Debtor's Certification of Completion of Credit Counseling (must be completed 180 days prior to filing bankruptcy) - Will receive certificate from credit counseling agency upon completion of credit counseling.
  - Along with this Certification, the debtor must file any debt repayment plan that was proposed.
- Copies of Payment Advices (Pay Statements) or other evidence of payment received within 60 days prior to the date the petition was filed from any employer.
- Form B21, Statement of Social Security Number
- Form B4, List of Creditors Holding 20 Largest Unsecured Claims (For Ch 11 Only)
- Form B6, Summary of Schedules
- Form B6A, Schedule A - Real Property
- Form B6B, Schedule B - Personal Property
- Form B6C, Schedule C - Property Claimed as Exempt
- Form B6D, Schedule D - Creditors Holding Secured Claims
- Form B6E, Schedule E - Creditors Holding Unsecured Priority Claims
- Form B6F, Schedule F - Creditors Holding Unsecured Nonpriority Claims
- Form B6G, Schedule G - Executory Contracts and Unexpired Leases
- Form B6H, Schedule H - Co-Debtors
- Form B6I, Schedule I - Current Income of Individual Debtor(s)
- Form B6J, Schedule J- Current Expenditures of Individual Debtor(s)
- Form B6, Declaration Concerning Debtor's Schedules
- Form B7, Statement of Financial Affairs
- Form B8, Chapter 7 Individual Debtor's Statement of Intention
- Form B19A, Declaration and Signature of Non-Attorney Bankruptcy Petition Preparer
- Form B19B, Notice to Debtor by Non-Attorney Bankruptcy Petition Preparer
- Form B22A, Statement of Current Monthly Income and Means Test Calculation (Chapter 7)
- Form B22B, Statement of Current Monthly Income (Chapter 11)
- Form B22C, Statement of Current Monthly Income and Disposable Income Calculation (Chapter 13)

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- Form B23, Debtor's Certification of Completion of Instructional Course Concerning Financial Management (Due within 45 days after the date of the first meeting of creditors for Ch 7 Cases, and due by date of last payment for Ch 13 Cases). **The debtor is required to file with the court the actual certificate of completion of instructional course concerning financial management.**
- Certification of Domestic Support Obligation Paid (Form found at Appendix "B" or on the Court's website at [www.neb.uscourts.gov](http://www.neb.uscourts.gov)).
- Form B201, Notice to Individual Consumer Debtor (Form found at Appendix "C")
- Form B240, Reaffirmation Agreement, Ch 7 Cases (If applicable to your case)
- Chapter 13 Plan (for Ch 13 Only), The Plan must conform to the form found at the Court's Website [www.neb.uscourts.gov](http://www.neb.uscourts.gov). You may also obtain a copy from the Clerk's Office.

**IMPORTANT**

**Failure to comply with the filing requirements or missing  
deadlines may result in your case being dismissed and  
loss of bankruptcy protection.**

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**CHAPTER INFORMATION**

**Chapter 7: Liquidation of Available Assets**

Chapter 7 is designed for debtors in financial difficulty who do not have the ability to pay their existing debts.

Under Chapter 7, a trustee takes possession of all of your property. You may claim certain property as exempt under governing law. The trustee then liquidates the property and uses the proceeds to pay your creditors according to priorities of the Bankruptcy Code.

**Chapter 11: Business Reorganization**

Chapter 11 is designed primarily for the reorganization of a business but is also available to consumer debtors. Its provisions are quite complicated, and any decision for an individual to file a Chapter 11 petition should be reviewed with an attorney. It is extremely unlikely that a non-attorney would be able to successfully represent a debtor in a Chapter 11 case, and such a case would almost certainly be dismissed or converted to a Chapter 7.

**Chapter 12: Adjustment of Debts of a Family Farmer with Regular Income**

Chapter 12 is designed for individuals who are farmers but are temporarily unable to pay their debts and would like to repay them in installments over a period of time. Chapter 12 is only for small business farmers and is not intended to cover agribusiness.

Under Chapter 12, you must file a plan with the court to repay your creditors all or part of the money you owe them using future earnings. The period allowed by the court to repay your debts is usually three (3) years, but not more than five (5) years. This plan must be approved by the court before it can take effect.

**Chapter 13: Repayment of All or Part of the Debts of an Individual with Regular Income**

Chapter 13 is designed for individuals with regular income who are temporarily unable to pay their debts but would like to pay them in installments over a period of time. You are only eligible for Chapter 13 if your debts do not exceed certain dollar amounts set forth in the Bankruptcy Code.

Under Chapter 13, you must file a plan with the court to repay your creditors all or part of the money that you owe them, using your future earnings. Usually, the period allowed by the court to repay your debts is three (3) years, but not more than five (5) years. Your plan must be approved by the court before it can take effect.

**Chapter 15: Ancillary and Other Cross-Border Cases**

Chapter 15, which replaces the former section 304 of the Code, is an entire new chapter. The new chapter encourages cooperation between the United States and foreign countries in connection with international insolvency cases.

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**CREDIT COUNSELING REQUIREMENTS PER 11 U.S.C. § 109(h)**

Under the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA), which was enacted on April 20, 2005, all individual debtors who file bankruptcy on or after October 17, 2005, must undergo credit counseling within six months before they file bankruptcy and must complete a financial management instructional course after they file bankruptcy. With certain exceptions, an individual is not eligible to file bankruptcy without completing credit counseling, and is not eligible to receive a bankruptcy discharge without completing a financial management instructional course.

**A. Requirements Prior to Filing Bankruptcy**

In order to be eligible for filing under any chapter, a debtor must participate in an individual or group briefing conducted by an approved, non-profit budget/credit counseling service in the 180-day period prior to the filing of bankruptcy.

1. 11 U.S.C. § 521(b) requires that a debtor, who is an individual, shall file with the court a certificate and debt repayment plan (if applicable) from the approved nonprofit budget and credit counseling agency.
  - a. The Credit Counseling Agency will give you the Certificate. You must file this certificate and any debt repayment plan with the Court at the time of filing the petition.
  - b. A p p r o v e d a g e n c y l i s t i n g f o u n d a t [http://www.usdoj.gov/ust/eo/bapcpa/ccde/cc\\_approved.htm](http://www.usdoj.gov/ust/eo/bapcpa/ccde/cc_approved.htm) .
2. There are three (3) exceptions to this rule:
  - a. For debtors who reside in judicial districts for which the United States Trustee has determined that such services are not readily available; Please refer to the Trustee's Website for more information <http://www.usdoj.gov/ust/>.
  - b. For debtors who can demonstrate exigent circumstances that warrant a waiver. Debtors who are granted waivers are given 30 days from the date of filing to meet the requirement.
  - c. For debtors who are incapacitated, disable, or on active military duty in a combat zone (with limiting definitions for incapacity and disability).
3. An individual may be allowed to file bankruptcy without a briefing by a credit counselor if there are exigent circumstances that merit a waiver of the requirements. To obtain a waiver, the individual must submit a certification to the Court describing the exigent circumstances, and stating that they requested credit counseling services from an approved credit counseling agency, but were unable to obtain the services within 5 days. If a waiver is granted, the Debtor must attend a briefing within 30 days (plus 15 more if granted by the Court) after the petition is filed.

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**FINANCIAL MANAGEMENT COURSE UNDER 11 U.S.C. § § 727 AND 1328**

Individuals filing under chapters 7 and 13 must complete an approved financial management course (subject to exceptions set forth below) in order to receive a discharge.

- A. The court shall not grant a discharge under § 727(a)(11) or § 1328 (g)(1) if the debtor fails to complete an approved instructional course concerning personal financial management.
1. The list of agencies approved to conduct financial management courses will be compiled by the United States Trustee (UST). That list can be found at [http://www.usdoj.gov/ust/eo/bapcpa/ccde/de\\_approved.htm](http://www.usdoj.gov/ust/eo/bapcpa/ccde/de_approved.htm) (instructional course concerning personal financial management). The clerk will not be responsible for ensuring that the financial management course was conducted by an approved service (an objection to this may be raised by the trustee or other third party.)
  2. There are specific exceptions to this requirement, including:
    - a. if the debtor is unable to complete the financial management requirement as a result of incapacity or disability; or
    - b. if the debtor is on active military duty in an active combat zone; or
    - c. if the UST has determined that adequate financial management services are not available in the district.
  3. Upon completion of the Financial Management Course, the debtor shall:
    - a. File the certification with the Court.
    - b. The debtor will receive the Certificate of Completion of Financial Management from the agency providing the course.
    - c. The certification must be filed within 45 days of the date of the 341 meeting of creditors for Chapter 7 Cases, and by the date of the last payment for Chapter 13 Cases.
    - d. The Certificate of Completion of instructional course concerning personal financial management must be filed in all individual Chapter 13 and Chapter 7 cases even if the US Trustee has not approved any agencies for the applicable district.
- B. If the debtor fails to submit the required certification regarding financial management, the case will be closed without the discharge being granted.
- C. The debtor can subsequently move to reopen the case to request that the discharge be granted. The debtor will be required to pay the fee to reopen the case.

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**MEANS TESTING UNDER 11 U.S.C. §707**

The means testing mechanism presumes abuse in individual cases if, after subjecting a petition to financial analysis, it is determined that the debtor could repay a threshold level of general unsecured debt.

This computation is based in large on two elements:

1. The debtor's current monthly income (generally, income from all sources, including contributions by others to household expenses but excluding Social Security benefits).
2. Allowed deductions, utilizing an IRS standard for expenses, as well as several other highly detailed expense standards.

In order to comply with the means test requirements, all individual debtors (individual chapter 7 consumer debtor, each individual debtor in a joint case, individual chapter 11 debtor, and all chapter 13 debtors) will complete the appropriate form "Statement of Current Monthly Income and Disposable Income Calculation". The forms are as follows:

1. Chapter 7 Debtors will use Bankruptcy Form B22A.
2. Chapter 11 Debtors will use Bankruptcy Form B22B.
3. Chapter 13 Debtors will use Bankruptcy Form B22C.

The clerk's office is not required to review any of the calculations provided by the debtor in the means test documents for accuracy, completeness, etc.

**MEANS TEST FILING REQUIREMENTS**

**A. In General**

1. The Means Test documents shall be completed and filed at the same time the Petition is filed.
2. If the documents are not filed with the Petition, the Clerk's office will enter a specific deadline on the docket in which to file the required documents.
3. A debtor must enter income and expense information onto the appropriate form and then make calculations using the entered information. Some of the information needed to complete the forms comes from the Census Bureau and the Internal Revenue Service (IRS). This information can be found on the United States Trustee's Website ([www.usdoj.gov/ust/](http://www.usdoj.gov/ust/)).
4. The forms can be downloaded from the Court's website or at [www.usdoj.gov/ust/](http://www.usdoj.gov/ust/).

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**CERTIFICATION OF DOMESTIC SUPPORT OBLIGATION PAID** (Ch. 13 & Ch. 12 cases).

Domestic support obligation (DSO) means a debt that accrues before, on, or after the date of the order for relief in a case under this title, including interest that accrues on that debt as provided under applicable non bankruptcy law notwithstanding any other provision of this title, that is—

- (A) owed to or recoverable by—
  - (i) a spouse, former spouse, or child of the debtor or such child's parent, legal guardian, or responsible relative; or
  - (ii) a governmental unit;
- (B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child of the debtor or such child's parent, without regard to whether such debt is expressly so designated;
- (C) established or subject to establishment before, on, or after the date of the order for relief in a case under this title, by reason of applicable provisions of—
  - (i) a separation agreement, divorce decree, or property settlement agreement;
  - (ii) an order of a court of record; or
  - (iii) a determination made in accordance with applicable nonbankruptcy law by a governmental unit; and
- (D) not assigned to a non governmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child of the debtor, or such child's parent, legal guardian, or responsible relative for the purpose of collecting the debt.

The court shall not grant a discharge in a Chapter 13 or a Chapter 12 case of a debtor who is required by a judicial or administrative order, or by statute, to pay a domestic support obligation unless such debtor certifies that all amounts payable under such order or such statute that are due on or before the date of said certification have been paid.

1. The debtor is required to file said certification with the Court. (The Certification can be found at Appendix "B")
2. If the Certificate of Completion of Support Obligation paid in full is not timely filed the case will be closed without a discharge and a Motion to Reopen (with the full filing fee) will need to be filed to permit the filing of the certificate.



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**PETITION FILING REQUIREMENTS PER LOCAL RULE 1002-1**

**A. Specific Requirements of Content of Voluntary Petition**

1. The petition shall conform to the Official Bankruptcy Forms which can be purchased at various office supply stores. The forms are also available at the clerk's office or by accessing our internet address [www.neb.uscourts.gov](http://www.neb.uscourts.gov).
2. If the debtor is a corporation, attached to the petition shall be a certified copy of the corporation action authorizing the filing of the petition.
3. The petition shall include the tax identification numbers used by a corporation, partnership, an individual, and by a sole proprietorship, if different from individual tax identification number.
4. Rule 1005 provides that the caption of the petition includes only the final four digits of the debtor's Social Security Number. The debtor is required to file "Form 21 - Statement of Social Security" with the Court at the time of filing. The Form can be found by accessing our internet address [www.neb.uscourts.gov](http://www.neb.uscourts.gov).

**B. Copies:** The court requires only the original of any filing. The debtor is required to mail a copy to the Trustee.

**MISCELLANEOUS PETITION FILING REQUIREMENTS BY THE COURT**

- A. It is very important to retain your bankruptcy papers. Copies can be obtained later, but at an expense to you.
- B. Assembling your paperwork should entail the petition page on top and then the next two signed pages. All other schedules and statements can be stapled to the back of the petition and signature pages.
- C. Schedules can either be filed with the petition or within fifteen (15) days of filing the petition.
- D. Personal checks from the debtor are not accepted. We can accept cash, money orders or a check from someone other than the debtor.

**\*\*\*It is required that you bring in the exact amount due if paying by cash. The fees for filing bankruptcy can be located at the Court's internet website at [www.neb.uscourts.gov](http://www.neb.uscourts.gov).**

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**MATRIX FILING REQUIREMENTS PER LOCAL RULE 1007-2:**

A. Filing Matrix

1. **Each voluntary petition must be accompanied by a list of creditors, lessors interest holders set forth in alphabetical order (the "Matrix").**  
The matrix shall include the mailing address and zip code for each creditor and shall be typewritten in a format approved by the Clerk of the Bankruptcy Court.
2. In all Ch. 7, 12 and 13 cases, the IRS shall be listed only if debtor believes a tax owing. In all Ch. 11 cases, whether or not the IRS is known to be a creditor, the IRS shall be listed on the matrix at the address shown on Appendix "A" to this guide.
3. In all cases, where the Nebraska Dept. of Revenue is known to be a creditor and in all Ch. 11 cases, whether or not the NE Dept. of Revenue is known to be a creditor, the NE Dept. of Revenue shall be listed on the matrix at the address shown on Appendix "A" to this guide.
4. In all cases, the county attorney and county treasurer from the county in which the debtor resides, shall be listed on the matrix.

**MISCELLANEOUS MATRIX FILING REQUIREMENTS BY THE COURT:**

- A. The matrix must be filed with the petition on the date of filing.
- B. Lists must be typed in one of the following standard typefaces or print styles: Courier 10 pitch Prestige C Elite or Letter Gothic. Avoid use of a boldface setting.
- C. Lists should be typed on a single page in a single column (rather than in three columns) with a double space between each creditor **(a sample is shown on the next page).**
- D. DO NOT include the debtor, joint debtor or the attorney for debtor's name (if applicable) on the matrix since they are automatically added by our system.
- E. Avoid any extra marks on the list such as letterhead, dates, debtor's name, coffee stains or handwritten marks. Also, avoid non-standard paper such as onion skin, half-sized paper or colored paper.

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Rentrax  
PO Box 18888  
Portland OR 97218

Yellow Pages  
PO Box 2775  
McAllen TX 78502

Software Solutions  
751 North Lincoln  
Fremont NE 68025

Sight & Sound  
2055 Walton Road  
St. Louis MO 63114

Brentwood Bank  
8004 South 48th St.  
LaVista NE 68128

AI Thrower  
406 Lawrence Lane  
Bellevue NE 68005

US West Communications  
PO Box 737  
Des Moines IA 50338

TMC Long Distance  
7000 West Center Road  
Ste. 402  
Omaha NE 68106

Omaha Public Power  
444 So. 16th St. Mall  
Omaha NE 68102

Sarpy County Treasurer  
Courthouse  
Papillion NE 68046

Sarpy County Attorney  
Courthouse  
Papillion NE 68046

**UNITED STATES BANKRUPTCY COURT  
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**REAFFIRMATION AGREEMENTS**

Pursuant to the Court's General Order 05-16, effective as to all cases filed on or after October 17, 2005, as follows:

- (1) All reaffirmation agreements filed with the court shall be in compliance with Official Form B-240.
- (2) No reaffirmation hearings will be scheduled and no reaffirmation agreements be reviewed or approved by the Court unless:
  - (a) a Motion for Reaffirmation Hearing is filed by a creditor or a debtor who is proceeding without an attorney and a debtor desires to reaffirm a debt postdischarge. See 11 U.S.C. §§ 524 ( C) (6) and (d).
  - (b) a Presumption that a reaffirmation agreement is an undue hardship has arisen under § 524 (m).
- (3) Reaffirmation agreements filed in cases in which the order for relief was entered prior to October 17, 2005 do not need to be in compliance with Official Form B-240. However, such form may be used if the parties to the reaffirmation agreement desire to use it.

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**CHAPTER 13 REQUIREMENTS**

1. Chapter 13 Plans shall be in substantial conformity with the form found on the Court's website [www.neb.uscourts.gov](http://www.neb.uscourts.gov).
2. Timely Filing of Plan, Schedules and Statement of Affairs. The Chapter 13 Plan, Schedules and Statement of Affairs must be filed within the time authorized by the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure. If these required documents are not timely filed, and no motion for an extension of time has been filed, the Chapter 13 Trustee or United States Trustee will file a Notification of Debtor's Failure to Comply and the case will be dismissed without further notice or hearing.
- C. Plan Filed with the Petition. If the Plan is filed with the Petition, the debtor shall serve the Plan, with a resistance date of fourteen days after the conclusion of the "Meeting of Creditors." The debtor will not have the exact date of the "Meeting of Creditors" when the Petition and Plan are filed. Therefore, the notice may state, "Any resistance to the Plan must be filed no later than fourteen days after the conclusion of the "Meeting of Creditors."
- D. Plan Not Filed with the Petition. If the Plan is not filed with the Petition, it shall be filed and served, with appropriate resistance date. No resistance date required under Neb. R. Bankr. P. 9013-1 shall be set for a date earlier than fourteen days after the conclusion of the "Meeting of Creditors".
- E. Confirmation. If a timely resistance/objection is filed, a confirmation hearing shall be scheduled. Such confirmation hearing shall not be scheduled prior to the conclusion of the Meeting of Creditors. If no timely objection to confirmation is filed, the Clerk shall enter a text-only order confirming the Plan as filed. No confirmation order shall be entered before the Meeting of Creditors has been concluded.
- F. Extension of Time to File Plan. If an extension of time to file a Plan is granted and the Plan is not filed and noticed at least fifteen days prior to the first date set for the Meeting of Creditors, the Chapter 13 Trustee will continue the Meeting of Creditors. Notice of the rescheduled meeting of creditors shall be sent by the debtor to all creditors and parties requesting notice and a certificate of service shall be filed with the Court. If the Plan is not filed at least fifteen days prior to the second date set for the Meeting of Creditors, the Chapter 13 Trustee or United States Trustee will file a Notification of Debtor's Failure to Comply and the case will be dismissed without further notice or hearing.
- G. Local Rules. Chapter 13 cases can be complicated and hard to understand. Refer to the Court's Local Rules at [www.neb.uscourts.gov](http://www.neb.uscourts.gov) for more specific requirements regarding chapter 13 cases.

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**ADVERSARY PROCEEDINGS**

Certain categories of relief may be granted in a bankruptcy court only through an adversary proceeding. The usual focus of the adversary proceeding is a trial of the allegations made by the plaintiff against the defendant.

The first step in commencing an adversary proceeding is the filing of a complaint, setting forth the facts and allegations which the plaintiff believes justify the granting of relief against the defendant, and stating the relief which the plaintiff seeks. As each complaint is unique, there is no specific form provided by the court.

The summons is the notice which accompanies the complaint, advising of the names of the parties, the court in which the adversary proceeding was filed, and the time limits for responding to the complaint.

The summons is prepared and issued by the Clerk of the Bankruptcy Court. The plaintiff's attorney is responsible for serving the summons and a copy of the complaint upon the defendant(s). If the plaintiff does not have an attorney, the pro se plaintiff is responsible for serving the summons and complaint upon the defendant(s).

**Applicable Law and Rules**

1. In general, Fed. R. Bankr. P. 7001 requires that an adversary proceeding be commenced 1) to recover money or property; 2) to determine the validity, priority, or extent of a lien or other interest in property; 3) to obtain court approval for the sale of both the interest of the estate and of a co-owner of property; 4) to object to or revoke a discharge; 5) to revoke an order of confirmation of a plan; 6) to determine the dischargeability of a debt; 7) to obtain an injunction; 8) to subordinate an allowed claim or interest; 9) to obtain a declaratory judgment relating to any of the foregoing; or 10) to determine a claim or cause of action removed from a state court pursuant to section 1452 of title 28 (28 U.S.C. § 1452).
2. Fed. R. Bankr. P. 7004 adopts portions of Rule 4 of the Federal Rules of Civil Procedure, and sets forth other provisions for the issuance and service of a summons. These rules are detailed and complex, and should be read in their entirety.
3. Rule 4(a) specifies the information that the plaintiff's attorney (or the plaintiff) must provide on the summons form. Rule 4(b) provides that, upon or after the filing of the complaint, the clerk shall issue the summons to the plaintiff's attorney (or the plaintiff). It is then the responsibility of the plaintiff's attorney (or the plaintiff) to serve the summons on the defendant.

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4. If the debtor is the plaintiff, section 342(c) of the Bankruptcy Code (11 U.S.C. § 342(c)) requires that the debtor's name, address, Social Security number and taxpayer identification number (if any) be included in the caption. Official Form 16C may be used for this purpose.
5. A copy of the complaint must be served with the summons. Rule 4(c).
6. The Clerk will issue the summons. The plaintiff will be responsible for making additional copies. Of course, if there is more than one defendant, each must be served with a separate copy of the summons and complaint.
7. The summons and complaint may be served in a variety of ways which are set forth in Rules 7004 and 4. When the defendant is an individual, other than an infant or incompetent person, the easiest method is for the summons and complaint to be mailed by first class mail postage prepaid to the individual's dwelling house or usual place of abode or to the place where the individual regularly conducts a business or profession. Rule 7004(b)(1).
8. Rule 7004(h) provides that service on a bank, savings and loan, or other insured depository institution in a contested matter or adversary proceeding must be made by certified mail addressed to an officer of the institution unless one of three exceptions applies. Those exceptions are 1) the attorney for the depository institution has filed a paper in the matter or has otherwise entered his or her appearance, 2) the court, following the procedure set out in the rule, orders otherwise, and 3) the depository institution has waived the requirement in writing by designating an officer to receive service. (Insured depository institutions are defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. § 1813).)
9. Because of the exceptions and the placement of the certified mail requirement in Rule 7004 rather than Fed. R. Bankr. P. 2002, the requirement applies in an adversary proceeding only to the service of the summons and complaint or the service of the third-party summons and third-party complaint and only if the depository institution is a defendant or third-party defendant.
10. Service must be made by someone who is not a party, and who is at least 18 years of age. Rule 7004(a).
11. The summons and complaint may be served anywhere in the United States. Rule 7004(d).
12. The summons and complaint must be served within ten days of the issuance of the summons. Service is complete upon mailing, not upon delivery by the Postal Service. If more than ten days pass before service is completed, a new summons must be issued and served. Rule 7004(e) and Fed. R. Bankr. P. 9006(e).
13. If the summons and complaint are not served within 120 days of the filing of the complaint, the court may dismiss the action. Rule 4(m).

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14. On the back of the summons is a certificate of service of the summons. After service has been made, this certificate should be completed, and filed with the court. The Court requires a certificate for each defendant that was served.
15. Fed. R. Bankr. P. 7012(a) provides that once a complaint is served, the defendant has 30 days after the issuance of the summons to file an answer or make one of the motions specified in Fed. R. Civ. P. 12 (made applicable by Rule 7012(b)). If the United States or one of its agencies or officers is the defendant, the time to file an answer or make a motion is 35 days. The court can order these time limits shortened or extended. If such an order is entered, the new time limit will be stated in the summons.

**Certificate of Service**

1. Line 1 (name) is to be completed with the full name of the person who served the summons and complaint.
2. Line 4 (date) is to be completed with the month, day and year service was perfected.
3. The appropriate box should be checked to show how service was made.

If mail service, state the mailing address, city, state and zip code of the place to which the summons and complaint were mailed.

If personal service, state both the name of the person to whom the summons and complaint were given, and the address at which this occurred.

If residence service, state both the name of the adult to whom the summons and complaint were given, and the address at which this occurred.

If certified mail service on an insured depository institution, state both the name of the officer to whom the summons and complaint were mailed and the mailing address, city, state, and zip code to which service was mailed.

If service by publication, describe the steps taken to perfect service.

If service was made pursuant to state law, fill in the blank with the name of state under whose laws the summons and complaint were served, and describe briefly the method of service, including the name of the person served and the address at which the person was served.

4. Date: - Insert on this line the month, day, and year the certificate is signed.
5. Signature: - The person who completed service of the summons and complaint must sign. This must be an ORIGINAL signature.
6. In the box directly below the Date and Signature lines, print or type the name and address of the person who signed the certificate.



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**General Information**

1. The plaintiff's attorney (or the plaintiff) is responsible for serving the summons and complaint, not the clerk.
2. There is no charge for the issuance of a summons, beyond the fee for commencing the adversary proceeding. See the Court's Website for the adversary filing fee. There is no fee due if the debtor files the adversary.
3. There are a series of deadlines for actions to be taken in the adversary proceeding. The most important of these are:
  - a. If the summons is not served within ten days, a new summons must be issued. Rule 7004(e). Request must be made in writing to the Court to request an Alias Summons.
  - b. If no summons is served within 120 days, the court is authorized by Rule 4(m) to dismiss the adversary proceeding on its own motion, after notice to the plaintiff.
  - c. If the defendant does not answer or make a motion pursuant to Fed. R. Bankr. P.7012 within 30 days, or such time as court may fix, the plaintiff may seek the entry of a default. (See form B 260). The United States, its agencies, and its officers have 35 days to answer or make a motion.

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U.S. as a Creditor or Party per Local Rule 2002-3:

- A. If one or more of the following departments or agencies of the U.S. is a creditor, the schedule of liabilities and the matrix shall list such departments or agencies at the address indicated on Appendix "A" to this guide.
1. Dept. of Agriculture (for Commodity Credit Corp and Farmers Home Administration: also list the Directors as set forth in Appendix "A")
    - a. ASCS/Commodity Credit Corp. (CCC)
    - b. Farmers Home Administration (FmHA)
  2. Dept. of Education
  3. Dept. of Health & Human Services (HHS)
  4. Dept. of Housing & Urban Development (HUD)
  5. Internal Revenue Service (IRS)
  6. United Postal Service (USPS)
  7. Small Business Administration (SBA)
  8. Veterans Administration (VA)
  9. Mississippi State Tax Commission Bankruptcy Section

# UNITED STATES BANKRUPTCY COURT DISTRICT OF NEBRASKA

## **Statement of Information Required by 11 U.S.C. § 341**

### Introduction

Pursuant to the Bankruptcy Reform Act of 1994, the Office of the U.S. Trustee, U.S. Department of Justice, has prepared this information sheet to help you understand some of the possible consequences of filing a bankruptcy petition under Chapter 7 of the Bankruptcy Code. This information is intended to make you aware of –

- the potential consequences of seeking a discharge in bankruptcy, including the effects on credit history;
- the effect of receiving a discharge of debts;
- the effect of reaffirming a debt; and
- your ability to file a petition under a different Chapter of the Bankruptcy Code.

There are many other provisions of the Bankruptcy Code that may affect your situation. This information sheet contains only general principles of law and is not a substitute for legal advice. If you have questions or need further information as to how the bankruptcy laws apply to your specific case, you should consult with an attorney.

### WHAT IS A DISCHARGE?

The filing of a Chapter 7 petition is designed to result in a discharge of most of the debts you listed on your bankruptcy schedules. A discharge is a court order that says you do not have to repay your debts, but there are a number of exceptions. Debts which may not be discharged in your Chapter 7 case include, for example, most taxes, child support, alimony, and student loans; court-ordered fines and restitution; debts obtained through fraud or deception; and personal injury debts caused by driving while intoxicated or taking drugs. Your discharge may be denied entirely if you, for example, destroy or conceal property; destroy, conceal or falsify records; or make a false oath. Creditors cannot ask you to pay any debts which have been discharged. You can only receive a Chapter 7 discharge once every eight (8) years.

### WHAT ARE THE POTENTIAL EFFECTS OF A DISCHARGE?

The fact that you filed bankruptcy can appear on your credit report for as long as 10 years. Thus, filing a bankruptcy petition may affect your ability to obtain credit in the future. Also, you may not be excused from repaying any debts that were not listed on your bankruptcy schedules or that you incurred after you filed bankruptcy.

### WHAT ARE THE EFFECTS OF REAFFIRMING A DEBT?

After you file your petition, a creditor may ask you to reaffirm a certain debt or you may seek to do so on your own. Reaffirming a debt means that you sign and file with the court a legally enforceable document, which states that you promise to repay all or a portion of the debt that may otherwise have been discharged in your bankruptcy case.

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Reaffirmation agreements are strictly voluntary - - they are not required by the Bankruptcy Code or other state or federal law. You can voluntarily repay any debt instead of signing a reaffirmation agreement, but there may be valid reasons for wanting to reaffirm a particular debt.

Reaffirmation agreements must not impose an undue burden on you or your dependents and must be in your best interest. If you decide to sign a reaffirmation agreement, you may cancel it at any time before the court issues your discharge order or within sixty (60) days after the reaffirmation agreement was filed with the court, whichever is later. If you reaffirm a debt and fail to make the payments required in the reaffirmation agreement, the creditor can take action against you to recover any property that was given as security for the loan and you may remain personally liable for any remaining debt.

### **OTHER BANKRUPTCY OPTIONS**

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You have a choice in deciding what Chapter of the Bankruptcy Code will best suit your needs. Even if you have already filed for relief under Chapter 7, you may be eligible to convert your case to a different Chapter.

Chapter 7 is the liquidation chapter of the Bankruptcy Code. Under Chapter 7, a trustee is appointed to collect and sell, if economically feasible, all property you own that is not exempt from these actions.

Chapter 11 is the reorganization Chapter most commonly used by businesses, but it is also available to individuals. Creditors vote on whether to accept or reject a plan, which also must be approved by the court. While the debtor normally remains in control of the assets, the court can order the appointment of a trustee to take possession and control of the business.

Chapter 12 offers bankruptcy relief to those who qualify as family farmers and fisherman. Family farmers must propose a plan to repay their creditors over a three-to-five year period and it must be approved by the court. Plan payments are made through a Chapter 12 Trustee, who also monitors the debtors' farming operations during the pendency of the plan.

Chapter 13 generally permits individuals to keep their property by repaying creditors out of their future income. Each Chapter 13 debtor proposes a plan to repay their creditors over a three-to-five year period which must be approved by the bankruptcy court. The debtor must pay the Chapter 13 Trustee the amounts set forth in their plan. Debtors receive a discharge after they complete their Chapter 13 repayment plan

**AGAIN, PLEASE SPEAK TO AN ATTORNEY IF YOU NEED FURTHER INFORMATION OR EXPLANATION, INCLUDING HOW THE BANKRUPTCY LAWS RELATE TO YOUR SPECIFIC CASE.**

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**THE FAIR CREDIT REPORTING ACT**

The Fair Credit Reporting Act is the law that controls credit reporting agencies. The law states that credit reporting agencies may not report a bankruptcy case on a person's credit after ten years from the date the bankruptcy case is filed. Other bad credit information is removed after seven years. The larger credit reporting agencies belongs to an organization called the Associated Credit Bureaus. The policy of the Associated Credit Bureau is to remove Chapter 11 and Chapter 13 cases from the credit report after seven years to encourage debtors to file under these chapters.

You may want to contact the Federal Trade Commission, Bureau of Consumer Protection, Education Division, Washington, D.C. 20580, or telephone them at (202) 326-2222 and request the publications "How to Dispute Credit Reporting Errors" and Fair Credit Reporting

The U. S. Bankruptcy Court Clerk's Office is not responsible for credit reports. Bankruptcy records are public records and the information contained in them can be retrieved by anyone. Any disputes you have with a credit agency must be resolved by you and that agency.

# UNITED STATES BANKRUPTCY COURT DISTRICT OF NEBRASKA

## BANKRUPTCY TERMINOLOGY

Most debtors who file a bankruptcy petition, and many of their creditors, know very little about the bankruptcy process. This glossary of bankruptcy terminology explains, in layman's terms, many of the legal terms that are used in cases filed under the Bankruptcy Code.

**adversary proceeding:** A lawsuit arising in or related to a bankruptcy case that is commenced by filing a complaint with the court. A nonexclusive list of adversary proceedings is set forth in Fed. R. Bankr. P. 7001.

**assume:** An agreement to continue performing duties under a contract or lease.

**automatic stay:** An injunction that automatically stops lawsuits, foreclosures, garnishments, and all collection activity against the debtor the moment a bankruptcy petition is filed.

**bankruptcy:** A legal procedure for dealing with debt problems of individuals and businesses; specifically, a case filed under one of the chapters of title 11 of the United States Code (the Bankruptcy Code).

**bankruptcy administrator:** An officer of the judiciary serving in the judicial districts of Alabama and North Carolina who, like the U.S. trustee, is responsible for supervising the administration of bankruptcy cases, estates, and trustees; monitoring plans and disclosure statements; monitoring creditors' committees; monitoring fee applications; and performing other statutory duties. *Compare* U.S. trustee.

**Bankruptcy Code:** The informal name for title 11 of the United States Code (11 U.S.C. §§ 101-1330), the federal bankruptcy law.

**bankruptcy court:** The bankruptcy judges in regular active service in each federal judicial district; a unit of the district court.

**bankruptcy estate:** All legal or equitable

interests of the debtor in property at the time of the bankruptcy filing. (The estate includes all property in which the debtor has an interest, even if it is owned or held by another person.)

**bankruptcy judge:** A judicial officer of the United States district court who is the court official with decision-making power over federal bankruptcy cases.

**bankruptcy petition:** The document filed by the debtor (in a voluntary case) or by creditors (in an involuntary case) by which opens the bankruptcy case. (There are official forms for bankruptcy petitions.)

**chapter 7:** The chapter of the Bankruptcy Code providing for "liquidation" (*i.e.*, the sale of a debtor's nonexempt property and the distribution of the proceeds to creditors).

**chapter 9:** The chapter of the Bankruptcy Code providing for reorganization of municipalities (which includes cities and towns, as well as villages, counties, taxing districts, municipal utilities, and school districts).

**chapter 11:** The chapter of the Bankruptcy Code providing (generally) for reorganization, usually involving a corporation or partnership. (A chapter 11 debtor usually proposes a plan of reorganization to keep its business alive and pay creditors over time. People in business or individuals can also seek relief in chapter 11.)

**chapter 12:** The chapter of the Bankruptcy Code providing for adjustment of debts of a "family farmer," or a "family fisherman" as those terms are defined in the Bankruptcy Code.

**chapter 13:** The chapter of the Bankruptcy Code providing for adjustment of debts of an individual with regular income. (Chapter 13 allows a debtor to keep property and pay debts over time, usually three to five years.)

## UNITED STATES BANKRUPTCY COURT DISTRICT OF NEBRASKA

**chapter 15:** The chapter of the Bankruptcy Code dealing with cases of cross-border insolvency.

**claim:** A creditor's assertion of a right to payment from the debtor or the debtor's property.

**confirmation:** Bankruptcy judges's approval of a plan of reorganization or liquidation in chapter 11, or payment plan in chapter 12 or 13.

**consumer debtor:** A debtor whose debts are primarily consumer debts.

**consumer debts:** Debts incurred for personal, as opposed to business, needs.

**contested matter:** Those matters, other than objections to claims, that are disputed but are not within the definition of adversary proceeding contained in Rule 7001.

**contingent claim:** A claim that may be owed by the debtor under certain circumstances, e.g., where the debtor is a cosigner on another person's loan and that person fails to pay.

**creditor:** One to whom the debtor owes money or who claims to be owed money by the debtor.

**credit counseling:** Generally refers to two events in individual bankruptcy cases: (1) the "individual or group briefing" from a nonprofit budget and credit counseling agency that individual debtors must attend prior to filing under any chapter of the Bankruptcy Code; and (2) the "instructional course in personal financial management" in chapters 7 and 13 that an individual debtor must complete before a discharge is entered. There are exceptions to both requirements for certain categories of debtors, exigent circumstances, or if the U.S. trustee or bankruptcy administrator have determined that there are insufficient approved credit counseling agencies available to provide the necessary counseling.

**creditors' meeting** see **341 meeting**

**current monthly income:** The average monthly income received by the debtor over the six calendar months before commencement of the bankruptcy case, including regular contributions to household expenses from nondebtors and income from the debtor's spouse if the petition is a joint petition, but not including social security income and certain other payments made because the debtor is the victim of certain crimes. 11 U.S.C. § 101(10A).

**debtor:** A person who has filed a petition for relief under the Bankruptcy Code.

**debtor education** see **credit counseling**

**defendant:** An individual (or business) against whom a lawsuit is filed.

**discharge:** A release of a debtor from personal liability for certain dischargeable debts set forth in the Bankruptcy Code. (A discharge releases a debtor from personal liability for certain debts known as dischargeable debts and prevents the creditors owed those debts from taking any action against the debtor to collect the debts. The discharge also prohibits creditors from communicating with the debtor regarding the debt, including telephone calls, letters, and personal contact.)

**dischargeable debt:** A debt for which the Bankruptcy Code allows the debtor's personal liability to be eliminated.

**disclosure statement:** A written document prepared by a chapter 11 debtor or other plan proponent designed to provide "adequate information" to creditors to enable them to evaluate the chapter 11 plan of reorganization.

**equity:** The value of a debtor's interest in property that remains after liens and other creditors' interests are considered. (Example: If a house valued at \$100,000 is subject to a \$80,000 mortgage, there is \$20,000 of equity.)

**executory contract or lease:** Generally includes contracts or leases under which both

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parties to the agreement have duties remaining to be performed. (If a contract or lease is executory, a debtor may assume it or reject it.)

**exemptions, exempt property:** Certain property owned by an individual debtor that the Bankruptcy Code or applicable state law permits the debtor to keep from unsecured creditors. For example, in some states the debtor may be able to exempt all or a portion of the equity in the debtor's primary residence (homestead exemption), or some or all "tools of the trade" used by the debtor to make a living (*i.e.*, auto tools for an auto mechanic or dental tools for a dentist). The availability and amount of property the debtor may exempt depends on the state the debtor lives in.

**family farmer or family fisherman:** An individual, individual and spouse, corporation, or partnership engaged in a farming or fishing operation that meets certain debt limits and other statutory criteria for filing a petition under chapter 12.

**fraudulent transfer:** A transfer of a debtor's property made with intent to defraud or for which the debtor receives less than the transferred property's value.

**fresh start:** The characterization of a debtor's status after bankruptcy, *i.e.*, free of most debts. (Giving debtors a fresh start is one purpose of the Bankruptcy Code.)

**insider (of an individual debtor):** Any relative of the debtor or of a general partner of the debtor; partnership in which the debtor is a general partner; general partner of the debtor; or a corporation of which the debtor is a director, officer, or person in control.

**insider (of a corporate debtor):** A director, officer, or person in control of the debtor; a partnership in which the debtor is a general partner; a general partner of the debtor; or a relative of a general partner, director, officer, or person in control of the debtor.

**joint administration:** A court-approved mechanism under which two or more cases

can be administered together. (Assuming no conflicts of interest, these separate businesses or individuals can pool their resources, hire the same professionals, etc.)

**joint petition:** One bankruptcy petition filed by a husband and wife together.

**lien:** The right to take and hold or sell the property of a debtor as security or payment for a debt or duty.

**liquidation:** A sale of a debtor's property with the proceeds to be used for the benefit of creditors.

**liquidated claim:** A creditor's claim for a fixed amount of money.

**means test:** Section 707(b)(2) of the Bankruptcy Code applies a "means test" to determine whether an individual debtor's chapter 7 filing is presumed to be an abuse of the Bankruptcy Code requiring dismissal or conversion of the case (generally to chapter 13). Abuse is presumed if the debtor's aggregate current monthly income (see definition above) over 5 years, net of certain statutorily allowed expenses is more than (i) \$10,000, or (ii) 25% of the debtor's nonpriority unsecured debt, as long as that amount is at least \$6,000. The debtor may rebut a presumption of abuse only by a showing of special circumstances that justify additional expenses or adjustments of current monthly income.

**motion to lift the automatic stay:** A request by a creditor to allow the creditor to take action against the debtor or the debtor's property that would otherwise be prohibited by the automatic stay.

**no-asset case:** A chapter 7 case where there are no assets available to satisfy any portion of the creditors' unsecured claims.

**nondischargeable debt:** A debt that cannot be eliminated in bankruptcy. Examples include a home mortgage, debts for alimony or child support, certain taxes, debts for most government funded or guaranteed educational loans or benefit overpayments,



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debts arising from death or personal injury caused by driving while intoxicated or under the influence of drugs, and debts for restitution or a criminal fine included in a sentence on the debtor's conviction of a crime. Some debts, such as debts for money or property obtained by false pretenses and debts for fraud or defalcation while acting in a fiduciary capacity may be declared nondischargeable only if a creditor timely files and prevails in a nondischargeability action.

**objection to dischargeability:** A trustee's or creditor's objection to the debtor being released from personal liability for certain dischargeable debts. Common reasons include allegations that the debt to be discharged was incurred by false pretenses or that debt arose because of the debtor's fraud while acting as a fiduciary.

**objection to exemptions:** A trustee's or creditor's objection to the debtor's attempt to claim certain property as exempt from liquidation by the trustee to creditors.

**party in interest:** A party who has standing to be heard by the court in a matter to be decided in the bankruptcy case. The debtor, the U.S. trustee or bankruptcy administrator, the case trustee and creditors are parties in interest for most matters.

**petition preparer:** A business not authorized to practice law that prepares bankruptcy petitions.

**plan:** A debtor's detailed description of how the debtor proposes to pay creditors' claims over a fixed period of time.

**plaintiff:** A person or business that files a formal complaint with the court.

**postpetition transfer:** A transfer of the debtor's property made after the commencement of the case.

**prebankruptcy planning:** The arrangement (or rearrangement) of a debtor's property to allow the debtor to take maximum advantage of exemptions. (Prebankruptcy planning typically includes converting nonexempt

assets into exempt assets.)

**preference or preferential debt payment:** A debt payment made to a creditor in the 90-day period before a debtor files bankruptcy (or within one year if the creditor was an insider) that gives the creditor more than the creditor would receive in the debtor's chapter 7 case.

**presumption of abuse see means test priority:** The Bankruptcy Code's statutory ranking of unsecured claims that determines the order in which unsecured claims will be paid if there is not enough money to pay all unsecured claims in full. For example, under the Bankruptcy Code's priority scheme, money owed to the case trustee or for prepetition alimony and/or child support must be paid in full before any general unsecured debt (*i.e.* trade debt or credit card debt) is paid.

**priority claim:** An unsecured claim that is entitled to be paid ahead of other unsecured claims that are not entitled to priority status. Priority refers to the order in which these unsecured claims are to be paid.

**proof of claim:** A written statement and verifying documentation filed by a creditor that describes the reason the debtor owes the creditor money. (There is an official form for this purpose.)

**property of the estate:** All legal or equitable interests of the debtor in property as of the commencement of the case.

**reaffirmation agreement:** An agreement by a chapter 7 debtor to continue paying a dischargeable debt (such as an auto loan) after the bankruptcy, usually for the purpose of keeping collateral (*i.e.* the car) that would otherwise be subject to repossession.

**secured creditor:** A creditor holding a claim against the debtor who has the right to take and hold or sell certain property of the debtor in satisfaction of some or all of the claim.

**secured debt:** Debt backed by a mortgage, pledge of collateral, or other lien; debt for

## UNITED STATES BANKRUPTCY COURT DISTRICT OF NEBRASKA

which the creditor has the right to pursue specific pledged property upon default. Examples include home mortgages, auto loans and tax liens.

**schedules:** Detailed lists filed by the debtor along with (or shortly after filing) the petition showing the debtor's assets, liabilities, and other financial information. (There are official forms a debtor must use.)

**small business case:** A special type of chapter 11 case in which there is no creditors' committee (or the creditors' committee is deemed inactive by the court) and in which the debtor is subject to more oversight by the U.S. trustee than other chapter 11 debtors. The Bankruptcy Code the time a small business debtor is in bankruptcy.

**statement of financial affairs:** A series of questions the debtor must answer in writing concerning sources of income, transfers of property, lawsuits by creditors, etc. (There is an official form a debtor must use.)

**statement of intention:** A declaration made by a chapter 7 debtor concerning plans for dealing with consumer debts that are secured by property of the estate.

**substantive consolidation:** Putting the assets and liabilities of two or more related debtors into a single pool to pay creditors. (Courts are reluctant to allow substantive consolidation since the action must not only justify the benefit that one set of creditors receives, but also the harm that other creditors suffer as a result.)

**341 meeting:** The meeting of creditors required by section 341 of the Bankruptcy Code at which the debtor is questioned under oath by creditors, a trustee, examiner, or the U.S. trustee about his/her financial affairs. Also called **creditors' meeting**

**transfer:** Any mode or means by which a debtor disposes of or parts with the debtor's property.

**trustee:** The representative of the bankruptcy estate who exercises statutory powers,

principally for the benefit of the unsecured creditors, under the general supervision of the court and the direct supervision of the U.S. trustee or bankruptcy administrator. The trustee is a private individual or corporation appointed in all chapter 7, chapter 12, and chapter 13 cases and some chapter 11 cases. The trustee's responsibilities include reviewing the debtor's petition and schedules and bringing actions against creditors or the debtor to recover property of the bankruptcy estate. In chapter 7, the trustee liquidates property of the estate, and makes distributions to creditors. Trustees in chapter 12 and 13 have similar duties to a chapter 7 trustee and the additional responsibilities of overseeing the debtor's plan, receiving payments from debtors, and disbursing plan payments to creditors.

**U.S. Trustee:** An officer of the Justice Department responsible for supervising the administration of bankruptcy cases, estates, and trustees; monitoring plans and disclosure statements; monitoring creditors' committees; monitoring fee applications; and performing other statutory duties. *Compare*, **bankruptcy administrator**.

**undersecured claim:** A debt secured by property that is worth less than the full amount of the debt.

**unliquidated claim:** A claim for which a specific value has not been determined.

**unscheduled debt:** A debt that should have been listed by the debtor in the schedules filed with the court but was not. (Depending on the circumstances, an unscheduled debt may or may not be discharged.)

**unsecured claim:** A claim or debt for which a creditor holds no special assurance of payment, such as a mortgage or lien; a debt for which credit was extended based solely upon the creditor's assessment of the debtor's future ability to pay.

**voluntary transfer:** A transfer of a debtor's property with the debtor's consent.

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEBRASKA**

**MOST COMMONLY ASKED QUESTIONS**

1. *Question:* Where do I get the forms to file bankruptcy?

*Answer:* You may obtain the forms from the internet at <http://www.uscourts.gov/bankform> or an office supply store that sells blank legal forms and documents. The clerk's office also supplies these forms.

2. *Question:* Why can't you give me advice on how to file bankruptcy or what chapter I should file?

*Answer:* 28 U.S.C. Section 955 prohibits the staff of the clerk's office from legal advice or assisting with the preparation of the forms. We are not attorneys.

3. *Question:* When am I under bankruptcy protection?

*Answer:* You are under bankruptcy protection when and after your petition is stamped by a member of the clerk's office staff or other official of the court. A case number is assigned at this time.

4. *Question:* How does bankruptcy affect my credit rating?

*Answer:* A credit rating is a matter governed by state law, not federal bankruptcy law. Affects of filing may differ from creditor to creditor. See information on the Fair Credit Report Act in this guide.

5. *Question:* Why do I have to pay a fee to file for bankruptcy?

*Answer:* Federal Statute, 28 U.S.C. Section 1930(a)(1)-(a)(5), requires a fee to file bankruptcy petition. Federal Rule 1006 requires every petition to be accompanied by the filing fee except as provided in subdivisions (b) and (c). Subdivision (b) of Rule 1006 allows for payment of filing fees in installments and subdivision (c) of the Rule 1006 allows for a waiver of filing fees.

6. *Question:* How can I pay in installments?

*Answer:* An application to pay filing fee in installments can be filed with bankruptcy petition and approved by the court. The total filing fee is due within 120 days from the date of filing of the petition. An application to pay filing fee in installments can be downloaded from our website at [www.neb.uscourts.gov](http://www.neb.uscourts.gov), however, the forms you purchased should include an application as well.

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEBRASKA**

**MOST COMMONLY ASKED QUESTIONS CONT'D.**

7. *Question:* If my case is dismissed or I change my mind about filing, will my filing fees be refunded?

*Answer:* Filing fees are non-refundable.

8. *Question:* How long does it take for my creditors to be notified that I have filed bankruptcy?

*Answer:* The creditors listed on your matrix are notified by the court within 7-10 days of your filing.

9. *Question:* How do I add a creditor to my petition that has already been filed?

*Answer:* You may file an amendment to your schedules. Please refer to the schedule provided to determine the amount owed for the amendment. The amendment should be in pleading form (meaning the page should be entitled "U.S. Bankruptcy Court, District of Nebraska" at the top and also list the case name and number). The pleading should clearly state what is being added and/or changed.

10. *Question:* How long does it take to get a discharge?

*Answer:* Each case is different. It depends on the case, the creditors involved, the trustee. The case cannot be discharged until after the deadline for filing objections to the discharge has passed.

11. *Question:* Will all of my creditors be notified of my discharge?

*Answer:* All creditors who were listed in your schedules or added by amendment to your schedules will be notified.

12. *Question:* When my case is discharged, is my case complete?

*Answer:* No, your case is not complete until it is closed by the court. The case is usually closed shortly after the discharge unless the trustee has made the determination that there are assets to distribute or an objection to discharge has been filed.

13. *Question:* Who has access to my file?

*Answer:* All of our files are public record.

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEBRASKA**

APPENDIX "A"

The following is a list of addresses that may be useful in completing your matrix.

Nebraska Department of Revenue  
Attn: Bankruptcy Unit  
P. O. Box 94818  
Lincoln, NE 68509-4818

Office of Post-Secondary Education  
50 United Nations Plaza Region IX  
Rm. 243  
San Francisco, CA 94102

Farm Service Agency  
State Executive Director  
CCC/Ag Credit (FmHA)  
7131 A Street  
P. O. Box 57975  
Lincoln, NE 68505-7975

Department of Health and Human Services  
(HHS)  
Regional Attorney  
Office of the General Counsel  
601 East 12th Street, Room 411  
Kansas City, MO 64106

USDA Rural Development  
State Executive Director  
Rm 152 Federal Building  
100 Centennial Mall North  
Lincoln, NE 68508

Internal Revenue Service (IRS)  
PO Box 21126  
Philadelphia, PA 19114

Department of Agriculture  
Office of General Counsel  
P. O. Box 419205  
Mail Stop 1401  
Kansas City, MO 64141-0205

Small Business Administration (SBA)  
District Counsel  
11145 Mill Valley Road  
Omaha, Nebraska 68154

Department of Housing and Urban  
Development (HUD)  
Chief Counsel  
Region VII - Omaha Office  
10909 Mill Valley Road  
Omaha, Nebraska 68154-3955

Social Security Administration  
Chief Counsel  
601 East 12<sup>th</sup> Street, Room 535  
Kansas City, MO 64106

Department of Education  
Office of General Counsel  
600 Independence Ave, S.W.  
Room 5442  
Washington, D.C. 20202

Mississippi State Tax Commission  
Bankruptcy Section  
PO Box 22808  
Jackson, MS 39225-2808

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEBRASKA**

APPENDIX "A" CONT'D

U. S. Attorney's Office  
1620 Dodge St., #1400  
Omaha, Nebraska 68102-1506

U. S. Attorney's Office  
100 Centennial Mall North  
487 Federal Building  
Lincoln, Nebraska 68508

U.S. Attorney General  
U.S. Department of Justice  
950 Pennsylvania Ave N.W., Rm 5137  
Washington, D.C. 20530

United States Postal Service (all cases other than tort)  
Law Dept. - Western Area  
9350 South 150 East, Suite 800  
Sandy, Utah 84070 - 2716

United States Postal Service (Tort Cases Only)  
Law Dept.  
P.O. Box 66640  
St. Louis, Missouri 63166-6640

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEBRASKA

APPENDIX "B"

IN THE MATTER OF:	)	
	)	CASE NO. *
	)	
*	)	Chapter
,	)	
	)	
DEBTOR(S)	)	

Debtor’s Certification of Domestic Support  
Payments paid in full.

We certify that prior to the date of this statement I/We have paid all amounts due under any domestic support obligation as defined by U.S.C. § 101 (14A).

I declare under penalty of perjury that the information provided is true and correct and that the Court may rely on the statement in continuing to process the case in normal course.

Dated: \_\_\_\_\_

\_\_\_\_\_  
/s/Debtor

\_\_\_\_\_  
/s/ Debtor

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEBRASKA**

APPENDIX "C"

**B 201 (10/05)**

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**UNITED STATES BANKRUPTCY COURT**

**NOTICE TO INDIVIDUAL CONSUMER DEBTOR UNDER § 342(b)  
OF THE BANKRUPTCY CODE**

In accordance with § 342(b) of the Bankruptcy Code, this notice: (1) Describes briefly the services available from credit counseling services; (2) Describes briefly the purposes, benefits and costs of the four types of bankruptcy proceedings you may commence; and (3) Informs you about bankruptcy crimes and notifies you that the Attorney General may examine all information you supply in connection with a bankruptcy case. You are cautioned that bankruptcy law is complicated and not easily described. Thus, you may wish to seek the advice of an attorney to learn of your rights and responsibilities should you decide to file a petition. Court employees cannot give you legal advice.

**1. Services Available from Credit Counseling Agencies**

**With limited exceptions, § 109(h) of the Bankruptcy Code requires that all individual debtors who file for bankruptcy relief on or after October 17, 2005, receive a briefing that outlines the available opportunities for credit counseling and provides assistance in performing a budget analysis.** The briefing must be given within 180 days **before** the bankruptcy filing. The briefing may be provided individually or in a group (including briefings conducted by telephone or on the Internet) and must be provided by a nonprofit budget and credit counseling agency approved by the United States trustee or bankruptcy administrator. The clerk of the bankruptcy court has a list that you may consult of the approved budget and credit counseling agencies.

**In addition, after filing a bankruptcy case, an individual debtor generally must complete a financial management instructional course before he or she can receive a discharge.** The clerk also has a list of approved financial management instructional courses.

**2. The Four Chapters of the Bankruptcy Code Available to Individual Consumer Debtors**

**Chapter 7: Liquidation (\$220 filing fee, \$39 administrative fee, \$15 trustee surcharge: Total fee \$274)**

1. Chapter 7 is designed for debtors in financial difficulty who do not have the ability to pay their existing debts. Debtors whose debts are primarily consumer debts are subject to a "means test" designed to determine whether the case should be permitted to proceed under chapter 7. If your income is greater than the median income for your state of residence and family size, in some cases, creditors have the right to file a motion requesting that the court dismiss your case under § 707(b) of the Code. It is up to the court to decide whether the case should be dismissed.

2. Under chapter 7, you may claim certain of your property as exempt under governing law. A trustee may have the right to take possession of and sell the remaining property that is not exempt and use the sale proceeds to pay your creditors.

3. The purpose of filing a chapter 7 case is to obtain a discharge of your existing debts. If, however, you are found to have committed certain kinds of improper conduct described in the Bankruptcy Code, the court may deny your discharge and, if it does, the purpose for which you filed the bankruptcy petition will be defeated.

4. Even if you receive a general discharge, some particular debts are not discharged under the law. Therefore, you may still be responsible for most taxes and student loans; debts incurred to pay nondischargeable taxes; domestic support and property settlement obligations; most fines, penalties, forfeitures,



and criminal restitution obligations; certain debts which are not properly listed in your bankruptcy papers; and debts for death or personal injury caused by operating a motor vehicle, vessel, or aircraft while intoxicated from alcohol or drugs. Also, if a creditor can prove that a debt arose from fraud, breach of fiduciary duty, or theft, or from a willful and malicious injury, the bankruptcy court may determine that the debt is not discharged.

**Chapter 13: Repayment of All or Part of the Debts of an Individual with Regular Income**  
**(\$150 filing fee, \$39 administrative fee: Total fee \$189)**

1. Chapter 13 is designed for individuals with regular income who would like to pay all or part of their debts in instalments over a period of time. You are only eligible for chapter 13 if your debts do not exceed certain dollar amounts set forth in the Bankruptcy Code.

2. Under chapter 13, you must file with the court a plan to repay your creditors all or part of the money that you owe them, using your future earnings. The period allowed by the court to repay your debts may be three years or five years, depending upon your income and other factors. The court must approve your plan before it can take effect.

3. After completing the payments under your plan, your debts are generally discharged except for domestic support obligations; most student loans; certain taxes; most criminal fines and restitution obligations; certain debts which are not properly listed in your bankruptcy papers; certain debts for acts that caused death or personal injury; and certain long term secured obligations.

**Chapter 11: Reorganization (\$1000 filing fee, \$39 administrative fee: Total fee \$1039)**

Chapter 11 is designed for the reorganization of a business but is also available to consumer debtors. Its provisions are quite complicated, and any decision by an individual to file a chapter 11 petition should be reviewed with an attorney.

**Chapter 12: Family Farmer or Fisherman (\$200 filing fee, \$39 administrative fee: Total fee \$239)**

Chapter 12 is designed to permit family farmers and fishermen to repay their debts over a period of time from future earnings and is similar to chapter 13. The eligibility requirements are restrictive, limiting its use to those whose income arises primarily from a family-owned farm or commercial fishing operation.

**3. Bankruptcy Crimes and Availability of Bankruptcy Papers to Law Enforcement Officials**

A person who knowingly and fraudulently conceals assets or makes a false oath or statement under penalty of perjury, either orally or in writing, in connection with a bankruptcy case is subject to a fine, imprisonment, or both. All information supplied by a debtor in connection with a bankruptcy case is subject to examination by the Attorney General acting through the Office of the United States Trustee, the Office of the United States Attorney, and other components and employees of the Department of Justice.

**WARNING:** Section 521(a)(1) of the Bankruptcy Code requires that you promptly file detailed information regarding your creditors, assets, liabilities, income, expenses and general financial condition. Your bankruptcy case may be dismissed if this information is not filed with the court within the time deadlines set by the Bankruptcy Code, the Bankruptcy Rules, and the local rules of the court.

**Certificate of [Non-Attorney] Bankruptcy Petition Preparer**

I, the [non-attorney] bankruptcy petition preparer signing the debtor's petition, hereby certify that I delivered to the debtor this notice required by § 342(b) of the Bankruptcy Code.

\_\_\_\_\_  
 Printed Name and title, if any, of Bankruptcy Petition Preparer  
 Address:

\_\_\_\_\_

X \_\_\_\_\_  
 Signature of Bankruptcy Petition Preparer or officer,  
 principal, responsible person, or partner whose Social  
 Security number is provided above.

\_\_\_\_\_  
 Social Security number (If the bankruptcy petition  
 preparer is not an individual, state the Social Security  
 number of the officer, principal, responsible person,  
 or partner of the bankruptcy petition preparer.)  
 (Required  
 by 11 U.S.C. § 110.)

**Certificate of the Debtor**

I (We), the debtor(s), affirm that I (we) have received and read this notice.

\_\_\_\_\_  
 Printed Name(s) of Debtor(s)

Case No. (if known) \_\_\_\_\_

X \_\_\_\_\_  
 Signature of Debtor Date

X \_\_\_\_\_  
 Signature of Joint Debtor (if any) Date